

# STATE OF ALASKA

## DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

ALASKA PUBLIC UTILITIES COMMISSION

**TONY KNOWLES, GOVERNOR**

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DOCKET FILE COPY ORIGINAL

February 24, 1997

RECEIVED

FEB 26 1997

FCC MAIL ROOM

William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Rm 222  
Washington, D.C. 20037

Re: Alaska Public Utilities Commission's Comments in Response to Notice of Proposed Rulemaking in CC Docket No. 97-11

Dear Mr. Caton:

Enclosed please find the original of the comments of the Alaska Public Utilities Commission filed in response to the the FCC's Notice of Proposed Rulemaking in CC Docket No. 97-11. The original is identical to the faxed version filed on February 24. This letter is also to confirm that the February 24, 1997 version of the APUC's comments is intended to replace the previously filed version of the APUC's comments dated February 21, 1997. The comments dated February 21, 1997 were filed in error.

By copies of this letter, the APUC is also providing International Transcription Services and the FCC's Network Services Division with the appropriate copy of the APUC's comments.

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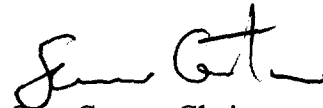
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Any questions regarding the APUC's filing should be directed to Philip Treuer at 907- 276-6222 (phone) or phil\_treuer@commerce.state.ak.us (Internet e-mail).

Sincerely,

A handwritten signature in black ink, appearing to read "Sam Cotten", with a stylized flourish at the end.

Sam Cotten, Chairman  
Alaska Public Utilities Commission

cc: International Transcription Services  
2100 M Street, N.W., Suite 140  
Washington, D.C. 20037

Secretary  
Network Services Division  
Common Carrier Bureau  
Federal Communications Division  
2000 M Street, N.W.  
Washington, D.C. 20554

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of

Implementation of Section 402(b)(2)(A)  
of the Telecommunications Act of 1996

CC Docket No. 97-11

COMMENTS OF THE  
ALASKA PUBLIC UTILITIES COMMISSION

RECEIVED  
FEB 26 1997  
FCC MAIL ROOM

Date: February 24, 1997

Sam Cotten, Chairman  
Alaska Public Utilities Commission  
1016 West Sixth Avenue, Suite 300  
Anchorage, Alaska 99501

Alaska Public Utilities Commission  
1016 West Sixth Avenue, Suite 400  
Anchorage, Alaska 99501  
(907) 276-6222; TTY (907) 276-4533

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
Implementation of Section 402(b)(2)(A) of ) CC Docket No. 97-11  
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COMMENTS OF THE  
ALASKA PUBLIC UTILITIES COMMISSION

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Summary

1. The Alaska Public Utilities Commission (APUC) is concerned that the Commission's streamlined discontinuance procedures will permit the removal of existing service that is essential to ensure public interest, convenience, and necessity.

2. Even though Alascom is governed by dominant carrier rules (at least in locations where it has a facilities monopoly), the APUC believes that the streamlined procedures proposed are inadequate to guarantee continued availability of interexchange service.

Discussion

The Commission seeks comment on whether the streamlined discontinuance procedures set forth in Section 63.71 of its rules<sup>1</sup>, which currently apply only to domestic non-dominant carriers<sup>2</sup>,

<sup>1</sup>  
"Under current Section 63.71 of our rules, non-dominant carriers seeking to reduce or discontinue service are required to notify all affected customers in writing of the planned discontinuance, reduction or impairment of service unless the Commission authorizes another form of notice in advance. Non-dominant carriers must also file with the Commission an application that includes a description and the date of the planned discontinuance, reduction or impairment, the geographic areas of service affected, the dates and method of notice given to customers, and any other information the Commission may require. The application is

1 should be applied to all domestic common carriers.

2  
3 The APUC is concerned that the Commission's streamlined discontinuance procedures will  
4 permit the removal of existing service that is essential to ensure public interest, convenience, and  
5 necessity. Alascom, Inc. d/b/a AT&T Alascom (Alascom) remains the sole carrier offering facilities  
6 based long distance services to the vast majority of communities in rural Alaska. Other carriers  
7 wishing to originate or terminate interstate or intrastate interexchange services must use Alascom to  
8 connect to these rural locations. Given this situation, Alaskans are dependent upon Alascom for the  
9 provision of toll services in most rural areas and Alascom has the potential to exercise market power  
10 absent regulatory intervention. If Alascom were to discontinue service at one or more of its facilities  
11 monopoly locations, it is unlikely that another carrier would have the financial and physical capability  
12 to provide alternative service on short notice. Relaxation of the standards regarding the discontinuation  
13 of service can, therefore, have a dramatic effect on the quality and availability of services to rural  
14 Alaska.

15  
16 The APUC believes that Alascom is governed by dominant carrier rules, at least in locations  
17 where it has a facilities monopoly<sup>3</sup>, yet there appears to be some confusion about this point in the

18  
19 automatically granted on the thirty-first day after its filing with the Commission, unless the  
20 Commission notifies the applicant within that time that the grant will not automatically be  
21 effective." [FCC 97-6, para. 69]

22  
23 <sup>2</sup>  
24 Currently dominant carriers must file a formal application with the Commission for a  
25 certificate that neither the present nor future public convenience and necessity will be  
26 adversely affected. [47 U.S.C.214(a)]

<sup>3</sup>  
24 "As a dominant interexchange carrier, Alascom is required to comply" with Part 64. Alascom  
25 Cost Allocation Plan, AAD 94-119, 97-320, Para. 34 (Common Carrier Bureau, Feb. 10,  
26 1997). "...AT&T has ... committed to continue to comply with all the obligations and  
conditions set forth in Alascom Authorization Order, the Market Structure Order, and the  
Final Recommended Decision." [Order, FCC 95-427, In the Matter of Motion of AT&T Corp.  
to be Reclassified as a Non-Dominant Carrier, paragraph 114.] "Alascom is governed by

1 Commission's discussion in the NPRM. The NPRM seems to presume that all remaining dominant  
2 carriers are LECs. At paragraph 71 the Commission states:

3  
4 As local exchange markets becomes [sic] increasingly competitive, however, many  
5 currently dominant LECs may find themselves under increasing pressure to reduce or  
6 eliminate service in unprofitable areas. [emphasis added]

7  
8 There is no comparable discussion of the pressure to reduce or eliminate unprofitable interexchange  
9 services in unprofitable areas. The Commission's focus on local exchange carriers is further  
10 highlighted when the Commission acknowledges its obligation to extend universal service protections  
11 to unserved communities through the eligible carrier designation of Section 214(e) of the  
12 Telecommunications Act of 1996. While the eligible carrier designation will likely apply to most  
13 incumbent LECs, it is unclear at this time whether the eligible carrier designation will be extended to  
14 interexchange services such as those provided by Alascom to remote communities in Alaska.


15 Even if Alascom is governed by dominant carrier rules in locations where it has a facilities  
16 monopoly, the APUC believes that the streamlined procedures proposed are inadequate to guarantee  
17 continuation of essential services. First, the notification procedures in Section 63.71 do not include  
18 notification of a state's public utilities commission. Second, the streamlined process shifts the burden  
19 and requires customers (who generally have little knowledge of Commission rules and procedures),  
20 rather than the utility, to defend continuation of service to a regulatory body located 5,000 miles away;  
21 this is a particularly onerous requirement where the carrier is the sole provider of services.  
22 Furthermore, it should be noted that most communities in rural Alaska do not have law libraries or  
23 access to the Internet in order for customers to familiarize themselves with federal telecommunications  
24 law. Third, even if customers do oppose a discontinuation of service there is no guarantee that the

25  
26 dominant carrier rules where it has a facilities monopoly, namely, the Bush areas." [Order,  
FCC 95-427, In the Matter of Motion of AT&T Corp. to be Reclassified as a Non-Dominant  
Carrier, footnote 329]

**Alaska Public Utilities Commission**  
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1 Commission will prevent a discontinuation of service pending public review. The only automatic  
2 trigger is one which automatically grants a utility's discontinuance should the Commission fail to  
3 respond by the 30th or 60th day. Finally, it is unclear to what extent, if at all, the eligible carrier  
4 designation under Section 214(e) will provide protections to interexchange customers facing the loss  
5 of their sole service provider. At a minimum, we suggest that all carriers seeking to exit an interstate  
6 telecommunications service market be required to provide timely notice to state regulatory  
7 commissions in the states to be exited (or states in which communities will be exited). In the case of  
8 dominant or essential telecommunications carriers, such notices should be given at least 60 days in  
9 advance.

10  
11 RESPECTFULLY SUBMITTED this 24th day of February, 1997

12  
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14  
15   
16 By: Commissioner Sam Cotten  
Chairman of the Alaska Public Utilities Commission